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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,053	10/09/2003	Chandan Mathur	1934-12-3	3240
996 7590 03/10/2011 GRAYBEAL JACKSON LLP 400 - 108TH AVENUE NE SUITE 700 BELLEVUE, WA 98004			EXAMINER HUISMAN, DAVID J	
			ART UNIT 2183	PAPER NUMBER
			MAIL DATE 03/10/2011	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/684,053

**Applicant(s)**

MATHUR ET AL.

**Examiner**

DAVID J. HUISMAN

**Art Unit**

2183

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 03 March 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  
 NOTE: see attached sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheet.

12. ☒ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). 1/14/2011 & 2/3/2011

13. ☐ Other: \_\_\_\_\_.

/David J. Huisman/  
Primary Examiner, Art Unit 2183

The IDS filed on January 14, 2011, has not been considered because applicant did not submit the fee set forth in 37 CFR 1.17(p), which is required for any IDS filed after final rejection. The IDS filed on February 3, 2011, has been considered.

The amendments will not be entered at least because Applicant states, on page 38 of the after-final response, that "The applicants' attorney does not necessarily agree with the examiner's interpretations of "object" and "publish" in sections 65 and 66 of the office action, and that these and the other claim limitations should be interpreted as a court of competent jurisdiction would interpret them."

This statement is confusing to the examiner because applicant, in the interview on September 27, 2010, and in the response filed on October 8, 2010, stated that the examiner was not interpreting "object" and "publish" as known in the art. Applicant then stated the meanings of these words as known in the art (last three paragraphs of page 27 and the last three paragraphs on page 28 of the response filed on October 8, 2010). After consideration of applicant's wishes, the examiner withdrew his rejections based on at least Dretzka because Dretzka has not taught these concepts when interpreted as applicant desired. However, by now saying that they shouldn't be limited based on the examiner's comments in paragraphs 65 and 66 of the final action mailed on December 27, 2010, which is how applicant limited them on October 8, 2010, the examiner will most likely need to reintroduce the rejections under at least Dretzka and reconsider any claims previously indicated as allowable. The examiner asks applicant to clarify the record in the next response. Either "object" and "publish" (and variations thereof) are to be limited as previously set forth by applicant and repeated in paragraphs 65 and 66 in the final action mailed on December 27, 2010, or applicant concedes that they should be read more broadly, which opens the claims back up to possible rejection under at least Dretzka.

On pages 20-21 of the after-final response, applicant argues:

"But the examiner's reading of claim 1 onto Bass, and thus the examiner's rejection of claim 1, fails, because despite the examiner's statement that the first and second buffers of claim 1 are inherent: in Bass, the applicants' attorney can find no mention of buffers in Bass. And even if buffers are inherent in Bass, the applicants' attorney can find nothing in Bass from which one may determine the locations of such buffers, let alone determine that Bass includes buffers that read on the buffers recited in claim 1.

And the examiner's rejection of claim 1 over Bass also fails because it appears to be impossible for Bass to read on both the first and second data-processing units and the processor as recited in claim 1. Claim 1 recites that the first and second buffers are respectively associated with first and second data processing units, and that a processor executes all of the four data-transfer objects. To meet this first limitation, the examiner must interpret Bass to teach that process A and process B run on different data-processing units, e.g., different processors, because the examiner's first buffer corresponds to Bass's object 2 (executed by process A), and the examiner's second buffer corresponds to Bass's object 4 (executed by process B). But to meet the second limitation, the examiner must interpret Bass to teach that process A and process B run on the same processor such that object 2 and object 4 (and/or message broker 13) are executed by the same processor. Consequently, because these two interpretations of Bass are mutually exclusive, Bass does not and cannot anticipate claim 1."

Though fully considered, these arguments are deemed non-persuasive because:

(1) The examiner pointed to Fig.1 and column 2, lines 18-25, of Bass, in paragraph 8(a) of the most recent office action. As stated by Bass, PUB/SUB systems, which Fig.1 shows, communicate asynchronously using a queuing mechanism where requests are queued between processes in case the receiving process is not alive. Hence, in Fig.1, though buffers are not physically shown, there must be at least one buffer/queue for each object so that messages may be published to it and/or subscribed from it. Without the buffer/queue for each object, the system wouldn't be a PUB/SUB system as disclosed by Bass, which clearly contradicts Fig.1 and column 4, lines 57-59.

(2) Applicant continues to read "processing unit" too narrowly. The examiner is obligated to take the broadest/reasonable interpretation of the claim. Applicant argues that "first and second data processing units" means "different processors". The examiner again disagrees. A processing unit is any unit in a processing system. In Fig.1, the objects are processing units. Specifically, they are code units which are processed by the processing system. And, from the response in paragraph (1) above, because each object has at least one inherent buffer associated with it, first and second buffers are associated with first and second objects (i.e., processing units). In addition, buffers inherently have input buses/wires, which are also processing units because they are physical units in a processing system. Hence, if there are multiple buffers, then they each have an associated processing unit. Both interpretations are valid.